IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc-M-29367 of 2007

Date of decision: 31.7.2007

Harparkash @ Omma …Petitioner

Versus

State of Haryana …Respondent

Present: Ms KB Jain, Advocate, for the petitioner.
Mr Vikas Chaudhary, AAG Haryana.

S.S. SARON, J

Heard counsel for the parties.

The petitioner – Harparkash @ Omma seeks regular bail in case FIR No.3 dated 3.1.2007 registered at Police Station Beri in respect of the offences under Sections 148, 149 and 302 IPC and Section 25 of the Arms Act, 1959.

The FIR (Annexure P1) has been registered on the statement of Parmod. His sister – Suman is married to Pardeep Jat resident of Gochhi. Said Pardeep – husband of Suman, is a Head Constable in the Haryana Police. He had come on leave to his house. His land, it is alleged, was being cultivated forcibly by his uncle Harparkash @ Omma (petitioner) and his son – Rajinder @ Bablu. On this, Pardeep used to object. On 3.1.2007, the petitioner and his son Bablu had threatened Pardeep in the presence of Suman that they either stop interfering in respect of the land otherwise they would be shot. The complainant – Parmod and his younger brother – Vinod Kumar went to their sister's house at about 2 p.m. At that time, Pardeep

was not at home and they came to know that he had gone to the fields. The complainant and his brother – Vinod Kumar reached near the water reservoir and saw that Rajinder @ Bablu (non-petitioner) was holding a pistol. Dholia son of Rajinder (non-petitioner) was holding a 'Dao' and the petitioner was armed with a Kikkar stick. 3-4 boys were running after Pardeep who hid himself in the water reservoir. The petitioner raised a Lalkara and his son Bablu fired a shot at Pardeep on his chest and pushed him in the water tank. On seeing them, the petitioner and others ran away. The petitioner threw the Kikkar stick in the water tank.

In the occurrence, the role attributed to the petitioner is that he was armed with a Kikkar stick which he threw in the water tank. Otherwise, the main allegation is against the son of the petitioner namely Rajinder @ Bablu.

There are special circumstances for grant of bail to the petitioner. As per the medical reports, he is suffering from throat cancer and other diseases. He has been under treatment at PGI Rohtak for the last 3 years. The medical reports (Annexures P2 and P3) are on record. Besides, learned counsel for the petitioner has placed on record the medical report of the petitioner issued by the Medical Officer, District Jail, Rohtak which reads as under:-

> "MEDICAL REPORT OF UNDERTRIAL PRISONER
> HARPARKASH S/O RISAL
>
> Harparkash s/o Risal was admitted to this jail on 8.1.2007. At the time of admission, he gave history of Cancer neck but no record was available. Later on record was produced showing that he had growth of Right Vocal

Cord for which he was operated upon in PGIMS in July 2005 and remained admitted there from 17.8.05 to 25.8.05.

Now, he is a **Diagnosed case of Carcinoma glottis.** He is under treatment from Radiotherapy Deptt. PGIMS, Rohtak. He has been plamed for **Radical Radiotherapy** according to which he is advised to come to Radiotherapy OPD daily for 6 weeks. He is being sent to PGIMS Rohtak.

No.62 Dated – 30.5.07. Sd/-Medical officer, Distt Jail, Rohtak."

Besides, it has been specifically stated by learned counsel for the petitioner that the petitioner is not in possession of the land as has been alleged by the complainant – Parmod in the FIR.

Keeping in view the health of the petitioner that he is suffering from throat cancer and also the fact that he has not been attributed any overt role in the occurrence, it would be just and expedient to grant him the concession of bail.

Accordingly, the criminal msic petition is allowed and the petitioner, on his furnishing personal bond and surety to the satisfaction of learned CJM, Jhajjar, shall be admitted to bail.

31.7.2007. (S.S.SARON)
ASR JUDGE